

Message Text

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ACTION L-03

INFO OCT-01 IO-12 ADP-00 CIAE-00 DODE-00 PM-09 H-02 INR-10

NSAE-00 NSC-10 PA-03 RSC-01 PRS-01 SS-15 USIA-12

ACDA-19 MBFR-03 GAC-01 AF-10 ARA-11 EA-11 EUR-25

NEA-10 RSR-01 OIC-04 SAJ-01 /175 W

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R 101225 Z MAY 73

FM USMISSION GENEVA

TO SECSTATE WASHDC 9237

INFO USMISSION USUN NEW YORK

C O N F I D E N T I A L GENEVA 2186

EO 11652: GDS

TAGS: PFOR, UN

SUBJ: DEFINITION OF AGGRESSION COMMITTEE

1. IN INITIAL MEETING MAY 9, CONTACT GROUP II (LIST OF ACTS, INDIRECT USES OF FORCE, MINOR INCIDENTS, AND SELF- DETERMINATION) DISCUSSED REFERENCE TO " WEAPONS OF MASS DESTRUCTION" IN SUB- PARA (B) OF LIST OF ACTS. SOVIET REP CALLED ATTENTION AGAIN TO HIS PROPOSAL TO DELETE REFERENCE IN TEXT AND INCLUDE " NON- USE OF FORCE" REFERENCE IN PREAMBLE (TEXT CONTAINED PARA 2 GENEVA 2051) US REP STATED US POSITION PER STATE 86786. IN FACE OF GENERAL LACK OF ENTHUSIASM FOR REHASH OF OLD DEBATE, SOVS DREW ATTENTION OF GROUP TO LAST PREAMBULAR PARA OF SOVIET DRAFT (P.7 OF 1972 REPORT) AS POSSIBLE APPROACH. SYRIAN REP EXPRESSED VIEW THAT THERE WAS NEED FOR PREAMBULAR REFERENCE TO AGGRAVATED CHARACTER OF AGRESSION IF IT INVOLVED USE OF " WEAPONS OF MASS DESTRUCTION OR OTHER WEAPONS WHICH CAUSE UNNECESSARY SUFFERING". US REP NOTED THAT SYRIAN APPROACH CONFUSED 2 PROBLEMS, THE FIRST BEING A QUESTION OF WHEN THE USE OF ARMED FORCE IS PERMISSIBLE, AND THE SECOND THE RULES OF ARMED CONFLICT WHICH APPLIED TO BOTH SIDES IN ANY CONFLICT REGARDLESS OF

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WHICH PARTY WAS THE AGGRESSOR.

2. CONTACT GROUP III (PRIORITY AND INTENT) HELD SECOND MEETING PM MAY 9, AND MADE NO PROGRESS IN BRIDGING WIDE DIVERGENCIES ON THESE TWO SUBJECTS. MEXICAN REP TOOK EXTREMELY HARDLINE POSITION, INSISTING THAT STATE WHICH ACTED FIRST MUST ALWAYS BE CONSIDERED THE AGGRESSOR AND THAT ANY REFERENCE TO INTENT THEREFORE UNACCEPTABLE. WHILE OTHER NON- ALIGNED REPS MORE FORTHCOMING, ALL PRESSED FOR " PRESUMPTION" OF GUILT IN CONNECTION WITH PRIORITY PRINCIPLE (" IT SHALL BE PRESUMED" LANGUAGE IN ALTERNATIVE 1, P. 16 OF REPORT). SEVERAL DELEGATIONS INCLUDING SOVS PROPOSED VARIOUS RE- FORMULATIONS OF " PRESUMPTION" CONCEPT. WG CHAIRMAN (BROMS) PROPOSED FOLLOWING TEXT: " THE FIRST STATE RESORTING TO AN ACT REFERRED TO IN PARA . . . OF THE DEFINITION SHALL BE DEEMED TO HAVE COMMITTED AGRESSION UNLESS IT CAN PROVE THAT ITS ACTION WAS UNDERTAKEN IN CONFORMITY WITH THE CHARTER OF THE UNITED NATIONS". WE INSISTED THAT WE COULD NOT ACCEPT CONCEPT OF PROCEDURAL " PRESUMPTION" OR " BURDEN OF PROOF" BUT SAID WE COULD OF COURSE CONSIDER POSSIBILITY OF REFLECTING IN TEXT NATURAL ASSUMPTION THAT PARTY WHICH FIRST USED FORCE WOULD BE EXPECTED PROVIDE AN EXPLANATION. COMMENT: SEE SEPTTEL FOR DEL' S SUGGESTIONS RE POSSIBLE MEANS OF DEALING WITH THIS PROBLEM. END COMMENT.

3. IN LIGHT OF OBVIOUS STALEMATE, GROUP AGREED POSTPONE ITS NEXT MEETING TO AM MAY 11 TO ALLOW TIME FOR INFORMAL NEGOTIATION. BASSIN

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